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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 36th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 August 1991, at 10 a.m.

Chairman: Mr. JOINET

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* The summary record of the first part (closed) of the meeting appears as document E/CN.4/Sub.2/1991/SR.36.

This record is subject to correction. Participants wishing to submit corrections during the session of the Sub-Commission are asked to hand them, in typewritten form, to the Secretary of the Sub-Commission. A consolidated corrigendum to the summary records covering the closed meetings of the Sub-Commission will be issued shortly after the session.

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The public meeting was called to order at 11 a.m.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (continued) (E/CN.4/Sub.2/1991/16; E/CN.4/Sub.2/1991/L.74)

1. The CHAIRMAN said that, owing to a misunderstanding, the fact that the observer for the United States of America had put down his name to speak under agenda item 20 had been overlooked. Since there was no precedent for an observer to speak under that item, he wished to suggest that the observer for the United States should be given the opportunity to speak after Mr. van Boven had introduced his report under agenda item 3.

2. It was so decided.

3. Mr. van BOVEN, Chairman/Rapporteur, introducing the report of an open-ended Working Group established pursuant to Sub-Commission decision 1989/104 (E/CN.4/Sub.2/1991/16), said that the open-ended Working Group had met on 8 and 9 August 1991 and its meetings had been attended by most of the members of the Sub-Commission, as well as by a large number of observers of States and representatives of non-governmental organizations. The open-ended Working Group had met in private on 22 August to adopt its report.

4. During the current session the Sub-Commission had focused on issues relating to the preparation of reports and studies. The Working Group, in its turn, had discussed questions relating to the preparatory document, commentators, the updating of annual lists of studies, the completion of an ongoing study before a new study was undertaken, the selection of special rapporteurs, publicity, a follow-up mechanism, the updating of studies, the joint preparation of studies and financial implications (paras. 13-27).

5. The Working Group had also had a preliminary discussion on the rationalization of the Sub-Commission's work and agenda, and had benefited from a written communication submitted by a number of non-governmental organizations; however, the discussion had been brief and needed to be continued. The members of the Working Group had discussed and adopted a number of conclusions and recommendations relating to studies and reports (paras. 30-37). Other matters were still pending, such as the submission and adoption of resolutions, the structure of the agenda and the role of alternates (para. 38).

6. The Commission had instructed the Sub-Commission to make every effort to rationalize its work, and the Sub-Commission itself was fully aware of that need and of the competitive demands it faced during its sessions. On behalf of the officers, the Chairman had therefore suggested the establishment of an intersessional working group.

7. He had tried to give concrete shape to the suggestion in a draft decision (E/CN.4/Sub.2/1991/L.74) submitted on his own behalf for consideration by the Sub-Commission. The draft decision proposed to establish on an exceptional basis in 1992 an intersessional working group on the methods of work of the Sub-Commission. That working group, whose members would be appointed by the Chairman of the Sub-Commission's forty-third session, would have as its task

the elaboration of proposals for the rationalization of the work and agenda of the Sub-Commission, in particular with regard to the preparation and submission of working documents, studies and reports; the submission and adoption of resolutions; the structure of the agenda; methods and means of dealing with violations of human rights; and the role of alternates. Another sub-item, the possibility of elaborating a medium-term plan, had been suggested, but for the time being would not be included.

8. Since the draft decision would have financial implications, it was proposed that it should be referred to the Commission for adoption, so that the intersessional working group would be authorized to meet prior to the forty-fourth session of the Sub-Commission, which would then be able to consider concrete and substantive proposals for the rationalization of its work.

9. Mr. ABRAM (Observer for the United States of America) said that his remarks had been prepared for delivery under agenda item 20, but in deference to the Chairman's request and with the agreement of the officers, he would make them at that juncture.

10. He had recently published an article in the Harvard Human Rights Journal, discussing the Commission on Human Rights and the Sub-Commission, references to which had been made by some experts during the current session. Not surprisingly, what had attracted the most attention had been his asking whether the Sub-Commission should be continued if it was unable to live up to its mandate and the instructions of its parent body. Some had voiced shock at the question, others had welcomed it. He was pleased that the article had prompted a vigorous debate, from which the Sub-Commission could only benefit.

11. At the opening of the session, the Chairman had proposed measures to conserve time and facilitate more constructive debates. In his address on 15 August, the Chairman of the Commission on Human Rights had emphasized the Commission's call to reduce the excessive number of resolutions and decisions adopted by the Sub-Commission. Nevertheless, the Sub-Commission had adopted even more resolutions at its current session than in 1990. At least nine of those resolutions had been on country situations already on the Commission's agenda, despite repeated instructions from the Commission to desist from that form of duplication.

12. The flood of resolutions showed how far the Sub-Commission had strayed from its original mandate, which was "to undertake studies ... and make recommendations to the Commission relating to human rights and fundamental freedoms". The Commission had deliberately given primary responsibilities for the protection of human rights to two different bodies. It had reserved political responsibilities to itself but had recognized the necessity of informed preparation through the objective work of experts not acting on the instructions of others. Thus, the Sub-Commission was to be the intellectual bank on which the Commission would draw for its decisions. The Sub-Commission was to complement the Commission, not to mimic it. It was to study and outline the principles to underpin the Commission's work. The Sub-Commission was not to be distracted by today's events; it was to focus on the conditions for a more humane tomorrow. In sum, the Sub-Commission was to be an intellectual fount, a resource to the Commission - not its competitor. It was

never intended to be a mini-Commission, a mini-General Assembly and certainly not a mini-Security Council. Moreover, the Sub-Commission's preoccupation with country situations usurped the role of other United Nations bodies. The Human Rights Committee, for example, was charged specifically with studying country human rights situations. An even more egregious example could be found in efforts by the Sub-Commission to take up issues which were under active consideration by the Security Council. That was certainly never contemplated by those who had established the Sub-Commission. In the interests of a unitary United Nations, it simply did not make sense to duplicate efforts in that way.

13. The Sub-Commission had at times performed its assigned roles magnificently, producing studies of tremendous impact. Such had been the 1963 report by Mr. Ingles on the right of individuals to leave their country - he believed that that report had done as much as anything to bring down the Berlin Wall - which had been torn down not by hands but by feet leaving totalitarian States. The study of self-determination by Mr. Gros Espiel had categorized most of the principles that were in the headlines today. Mr. Joinet's study of detention had resulted directly in the Commission's decision to establish a working group on arbitrary detention. The effectiveness of such studies highlighted the contribution that the Sub-Commission could make when it operated within its mandate and charter.

14. Those weighty and enduring studies had been done by the Commission's experts themselves and were not the result of drafting and research by the staff of the Human Rights Centre. He paid a tribute to the quality of such men as Mr. Ingles, Mr. Gros Espiel and Mr. Mohamed Abu Ranat, who were towering figures who had brought credit to the Sub-Commission, fiercely independent experts, as some were today. That independence was fundamental, and it had been strengthened by the adoption of the secret ballot. The Sub-Commission could and should, however, go further by sending Governments a direct message against the nomination of government officials to serve as experts.

15. There was a need to focus on what was missing from the draft agenda. The drafting of international human rights standards had for the most part been accomplished, but sadly their implementation had not. Why not? How could they be implemented? Perhaps the Sub-Commission could devote some of its energies to answering those questions. Could not the Sub-Commission put aside its less pressing studies and instead devote a week to reviewing the United Nations human rights implementation apparatus and organs and formulating recommendations to strengthen them?

16. That was what he meant by returning the Sub-Commission to its original mandate. If the Sub-Commission could contemplate the implementation system and recommend how to make it truly strong and dynamic, capable of reducing torture, arbitrary executions, enforced disappearances and racial discrimination, it would be a truly monumental achievement. He hoped that the Sub-Commission would make room on its agenda for such an undertaking. Ample time and resources could be found for that task if the Sub-Commission returned to its mandate and abided by the wishes of the Commission on Human Rights.

17. Mr. van BOVEN, referring to the statement by the observer for the United States of America, said that he doubted whether the work of the Sub-Commission should be assessed according to the work criteria of 25 years earlier. The United States observer had said that the Sub-Commission had strayed from its mandate. It was certainly true that the work of the Sub-Commission had changed but that expanded mandate had been decided by its parent organizations in, for example, Commission on Human Rights resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII). Under those resolutions, the Sub-Commission had been instructed to look further into the issue of violations of human rights.

18. It was true that the Sub-Commission did not work in an optimal manner but it had made proposals for improvements in that respect. There were gaps in the work of the United Nations on such issues as the rights of vulnerable groups, indigenous peoples and on the issue of contemporary forms of slavery and work on those had been pursued on the instructions of the parent bodies.

19. Twenty-five years earlier, the Sub-Commission's work had been basically of an academic type and there had been little public interest in it. Currently however, more than 100 non-governmental organizations and a greatly increased number of government observers followed the Sub-Commission's activities with keen interest, thus proving the relevancy of its current work. The Sub-Commission faced difficulties and was trying to improve. It was moving closer to the peoples in whose name the Charter of the United Nations had been drafted.

20. Mr. GUISSE supported the views of the observer of the United States regarding the independence of experts and the need for objectivity. If those elements were lacking, the Sub-Commission could not perform its duties; it was important that it should remain vigilant in regard to its own independence.

21. The observer for the United States had said that the Sub-Commission should be a resource for the Commission and should merely prepare studies for senior bodies. That was true but, in order to perform that function properly, the necessary facilities must be provided to the Centre and the Sub-Commission.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS OF THE SUB-COMMISSION (continued)

Review of the work of the Sub-Commission (agenda item 3) (continued)

Draft decision E/CN.4/Sub.2/1991/L.74

22. Mrs. WARZAZI proposed that the words "on an exceptional basis", should be included in the draft decision recommended to the Commission on Human Rights for adoption.

23. Mr. PACE (Centre for Human Rights), speaking in accordance with rule 28 of the rules of procedure, said that the total estimated cost for implementing draft decision E/CN.4/Sub.2/1991/L.74 under section 28 of the budget would be $US 16,300 in 1992. Additional Conference Service costs under section 32 were estimated at $US 31,100 for 1992.

24. Mr. ALFONSO MARTINEZ said that for personal reasons he had been unable to take part in the meetings of the open-ended Working Group on the methods of work of the Sub-Commission. Lack of time had doubtless prevented the Working Group from carrying out one of the directives contained in Sub-Commission decision 1989/104, namely to prepare an overview and analysis of suggestions and proposals made in order to enable the Sub-Commission to better discharge its responsibilities in dealing with violations of human rights. Suggestions made at the forty-second and forty-third sessions had not been discussed by the Working Group. He would have preferred less emphasis to have been laid on studies and more on other questions. All the matters dealt with in paragraphs 30 to 37 of the Working Group's report (E/CN.4/Sub.2/1991/16) had already been taken into account in practice, many of them in decisions of the Commission and the Sub-Commission. The important question of the structure of the agenda would have merited comment. Moreover, the lack of balance between the subjects dealt with by the Sub-Commission and the content of the studies should be analysed in depth by the proposed intersessional working group. He believed that the imbalance between civil and political rights and economic, social and cultural rights was an extraordinary anomaly. There seemed to be some impression that economic, social and cultural rights were not human rights but merely aspirations, which of course was not the view of the United Nations. He hoped that the intersessional group would restore the necessary balance between the two categories of rights. Turning to draft decision E/CN.4/Sub.2/1991/L.74, he asked whether the two matters he had raised could be covered by the analysis of the structure of the agenda. He asked for clarification as to the exact dates on which the proposed intersessional working group would meet.

25. Mrs. DAES expressed her thanks to Mr. van Boven and the members of the open-ended Working Group and to Mr. Hatano for his informal working paper containing a draft set of rules of procedure. She supported the draft decision in document E/CN.4/1991/74 proposing the establishment of an intersessional working group.

26. She wished to propose the inclusion of a further item in the intersessional working group's terms of reference, on which she hoped that the group would report at the Sub-Commission's next session. She would like to know when the confidentiality provided under Economic and Social Council resolution 1503 (XLVIII) would be lifted so that the public could be informed of the Sub-Commission's consideration of confidential communications.

27. Mrs. KSENTINI said that she assumed that the members of the proposed intersessional working group on the methods of work of the Sub-Commission would be appointed by the Chairman immediately. She considered that the draft decision should make it clear that the members of that would be appointed on the basis of equitable geographical distribution.

28. She proposed that the second paragraph of the draft decision should be reworded to read: "The Sub-Commission also decided, on an exceptional basis, to recommend to the Commission on Human Rights the following draft decision:".

29. Mrs. ATTAH said that she supported most of the recommendations of the Working Group, particularly those on publicity and the follow-up mechanism in paragraphs 23 and 24 of the report (E/CN.4/Sub.2/1991/16). However, she had

reservations about the question of the annual updating of reports and considered that the updating should be on a periodic basis. She did not think that the suggested regrouping of items on the Sub-Commission's agenda would be helpful; once a topic was on the agenda it was talked about. She fully endorsed the recommendation in paragraph 33 of the report with regard to the need for due attention to be paid to the principle of fair geographical distribution of Special Rapporteurs. She had already entered a reservation on the subject dealt with in paragraph 31 and had given her reasons for it at the time.

30. She pointed out that at its previous meeting the Sub-Commission had taken a decision not to recommend any intersessional meetings to the Commission; she would vote against draft decision E/CN.4/Sub.2/1991/L.74.

31. Mr. ILKAHANAF said that he did not oppose the draft decision but was against the hasty adoption of draft decisions before members had had a chance to discuss them. He agreed that the members of the intersessional working group should be appointed in accordance with the principle of equitable geographical distribution. He pointed out that an overlap of membership between the proposed intersessional working group and other groups should be avoided.

32. Mr. van BOVEN, replying to questions put by Mr. Alfonso Martínez, said he was sure that the question of the imbalance in the Sub-Commission's work would be taken into account by the intersessional working group when it discussed the structure of the agenda. The question of the timing of the meeting of the intersessional working group was a matter for the Secretariat, but it would take place between March and July 1992.

33. The question of the lifting of confidentiality under the 1503 procedure raised by Mrs. Daes could be dealt with in connection with item (d) on the intersessional working group's proposed agenda (Methods and means of dealing with violations of human rights).

34. The text of draft decision E/CN.4/Sub.2/1991/L.74 would be amended by the addition of the words "on an exceptional basis" as suggested by Mrs. Warzazi and Mrs. Ksentini, and it would be made clear that the appointment by the Chairman of the forty-third session of the Sub-Commission of the members of the working group would be made on the basis of equal geographical distribution.

35. Mr. PACE (Centre for Human Rights) confirmed that, when working groups were established, it was the practice for the Chairman to consult the officers, who represented the five regional groups. Once the composition of the working group was known, the Secretariat contacted its members with a view to arranging the dates of its meeting, taking into account the meetings of other bodies. The Secretariat would also need to know the working group's agenda.

36. Mr. ALFONSO MARTINEZ said that, if all the meetings of other bodies were taken into account, the only time that would be available for the new working group to meet would be between 1 June and 22 July.

37. Draft decision E/CN.4/Sub.2/1991/L.74, as amended, was adopted by 17 votes to 3, with 1 abstention.

38. Mrs. PALLEY, speaking in explanation of vote, said that she had voted against the draft decision because she considered that on so important a matter, the debates and discussions should be conducted at a time when all members of the Sub-Commission could be present. Decisions in that field should not be pre-shaped by a working group.

39. Mr. TIAN JIN said that he had voted against the draft decision because he considered that it gave the working group so much work to do that it would not be able to complete it in one year. It would be better for the working group to meet when the Sub-Commission was in session.

40. Mr. CHERNICHENKO said that he had voted in favour of the draft decision because experience had shown that in-session working groups were not very productive owing to the little time available to them to do their work.

Review of further developments in fields with which the Sub-Commission has been concerned (agenda item 4) (continued) (E/CN.4/Sub.2/1991/L.2 and L.77)

Draft resolution E/CN.4/Sub.2/1991/L.2

41. Mrs. PALLEY, introducing the draft resolution, said that the more she met the concerns of some members, the more she raised the concern of others that the Sub-Commission might be embarking upon matters more appropriately dealt with by other United Nations bodies. On the previous day she had circulated some amendments which had drawn attention to the need to eliminate all weapons of mass destruction, including nuclear weapons. The amendments had called on all States to consider accession to a non-proliferation treaty and had requested the Secretary-General to collect information on the development and deployment of nuclear weapons. As a result of all the concerns expressed and of the desire to have the resolution on the elimination of the use and supply of chemical weapons adopted, she did not intend to insist on the amendments concerned with all weapons of mass destruction, including nuclear weapons. However, together with other sponsors, she would submit a draft resolution on the elimination of all weapons of mass destruction at the Sub-Commission's next session.

42. She wished to draw attention to certain amendments which, she hoped, would enable the Sub-Commission to adopt the draft resolution by consensus. In the first line of operative paragraph 4 (a) the words "relevant and reliable sources" should be replaced by the words "Governments, other United Nations bodies and non-governmental organizations". The same change should be made in the first line of operative paragraph 4 (b). In the second line of operative paragraph 4 (b), the words "fuel air bombs and napalm" should be inserted after the words "chemical weapons". In the first line of operative paragraph 4 (c), the words "from those sources" should be inserted after the word "gathered".

43. Mr. CHERNICHENKO said that the draft resolution had no connection with human rights, which were not even mentioned in it. It was concerned with disarmament and the arms race. He therefore moved that consideration of it be deferred until the next session.

44. Mr. ALFONSO MARTINEZ supported that motion, since the subject-matter might not fall within the Sub-Commission's sphere of competence.

45. Mr. KHALIL endorsed the motion that consideration of the draft resolution be postponed. He was not opposed to Mrs. Palley's views but he felt that the subject should be studied fully in another forum.

46. Mr. van BOVEN also supported Mr. Chernichenko's motion. The draft resolution needed further study in order to ascertain what links there were between human rights and chemical weapons.

47. Mrs. PALLEY said that the Sub-Commission had a long history of unwillingness to take decisions regarding chemical weapons at the right time. In August 1988, while the Government of Iraq had been killing people in the north-east part of that country with chemical weapons, she had urged the Sub-Commission to adopt a humanitarian resolution on the subject. However. members had shown reluctance. As a new member, she had been sufficiently naive to accept assurances that no one member alone could submit such a draft resolution. Nevertheless, if a draft resolution had been submitted and adopted then, it might have given a message to the President of Iraq indicating concern about what Iraq had done.

48. She also wished to draw attention to a more recent action by another country, the United States of America, which had used fuel-air bombs and napalm, which were weapons of mass destruction of a chemical character although they were not defined as such by the Conference on Disarmament. It was her understanding that tens, if not hundreds, of thousands of Iraqis had been killed by those weapons. The draft resolution was designed to bring the facts into the open. The Secretary-General would then, for the first time, be able to give details of the use of those weapons and produce the casualty figures.

49. Mr. EIDE said that, although he had originally sponsored the draft resolution, he had not realized that the text would be broadened. He therefore supported the motion to postpone consideration until the following year.

50. Mr. TREAT said that although he, too, had sponsored the draft resolution, he agreed with Mr. Eide, particularly in view of what had just been stated.

51. Mrs. ATTAH said that she was in favour of Mrs. Palley's text, since there should be no selectivity.

52. The motion to postpone consideration of draft resolution E/CN.4/Sub.2/1991/L.2 until the following session was adopted by 11 votes to 4, with 5 abstentions.

Draft resolution E/CN.4/Sub.2/1991/L.77

53. Mr. PACE (Centre for Human Rights) said that implementation of the draft resolution would involve expenditure in the amount of $5,800 in 1992 which would be financed under section 28 of the budget.

54. Following a procedural discussion in which Mr. DESPOUY, Mrs. KSENTINI, Mr. ALFONSO MARTINEZ and Mrs. ATTAH took part, Mr. TURK said that the two sponsors had submitted a preliminary report to the Sub-Commission in 1990 but the Sub-Commission had not had sufficient time to consider it that year. The Special Rapporteurs had therefore been obliged to update the report. It should not be regarded as either a first or second progress report. They would do everything possible to ensure that the report to be submitted in 1992 could be accepted as final.

55. He proposed that the draft resolution should be adopted in its original form.

56. Draft resolution E/CN.4/Sub.2/1991/L.77 was adopted without a vote.

Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the forty-third session of the Sub-Commission (agenda item 20) (E/CN.4/Sub.2/1991/L.1)

Draft resolution E/CN.4/Sub.2/1991/L.1

57. The CHAIRMAN announced that, in keeping with previous practice, the Sub-Commission was required merely to take note of its draft provisional agenda for the forty-third session.

58. Following a procedural discussion in which Mr. ALFONSO MARTINEZ, Mr. DESPOUY, Mrs. DAES and Mr. van BOVEN took part, the CHAIRMAN announced that additional items would be included in the draft provisional agenda to take account of recent decisions of the Sub-Commission.

59. The Sub-Commission took note of the draft provisional agenda (E/CN.4/Sub.2/1991/L.1), as amended, for its forty-third session.

60. Mr. DESPOUY said that several resolutions relating to the World Conference on Human Rights had invited the Sub-Commission to participate in the work of the Conference. He proposed that the representative of the Sub-Commission on the Preparatory Committee should be its chairman.

61. It was so decided.

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES (agenda item 10) (continued)

(b) QUESTIONS OF HUMAN RIGHTS AND STATES OF EMERGENCY (continued)

62. Mr. SERGVEI (Observer for the Union of Soviet Socialist Republics) read out a message from his Government. The message stated that under article 127/3 of the Constitution of the USSR and article 2 of the USSR State

of Emergency Act, a state of emergency might be proclaimed in the territory of the USSR by the President of the USSR at the request of, or with the agreement of, the Presidium of the Supreme Soviet or the highest organ of State power of the constituent republic concerned. In violation of that legislation, the former Vice-President of the USSR, the Prime-Minister of the USSR, the Chairman of the KGB, the Ministers of Defence and of the Interior of the USSR and others had removed Mr. Gorbachev from the post of President of the USSR and had declared a state of emergency for six months in parts of the USSR. In addition, they had formed an unconstitutional body - the so-called State Committee for the State of Emergency - for which no provision was made in the Constitution of the USSR, the State of Emergency Act, or any other legislation. As a result of their actions the activities of the lawfully elected executive powers of the USSR had been paralysed. Their criminal coup d'état had been stopped as a result of the decisive action taken by the President of the Russian Soviet Federative Socialist Republic, Mr. Yeltsin, the Supreme Soviet and the Council of Ministers of the Russian Federation, the people of Moscow and Leningrad, and of the principled position adopted by a number of Union republics in defence of democracy and constitutional order.

63. During the time when the President of the USSR had been removed from power in violation of the Constitution of the USSR, the President of the Russian Federation had led the struggle against the unconstitutional State Committee for the State of Emergency. He had issued orders repealing the decisions of that Committee and had assumed full power within the territory of the Republic.

64. After the suppression of the coup d'état and Mr. Gorbachev's return to power on 22 August 1991, the latter had promulgated a decree repealing the unconstitutional orders issued by the organizers of the coup d'état. In his decree the President of the USSR had repealed all decisions taken by the State Committee for the State of Emergency or any of its members, removed all members of that State Committee from their posts, announced that the Procurator-General of the USSR had instituted criminal proceedings against persons who had participated in the conspiracy and that an investigation was being carried out jointly by the competent organs of the USSR and of the Russian Federation. In addition, on 22 August, the Committee on Legislation and Law and Order of the Supreme Soviet of the USSR had handed down a legal assessment of the documents of the State Committee for the State of Emergency.

65. Further information would be provided to the United Nations Special Rapporteur when the investigation had been completed.

66. Mr. DESPOUY welcomed the reply of the Soviet Union to his letter as a token of the willingness of the authorities in that country to cooperate with the Sub-Commission.

67. He considered that the Sub-Commission should express its gratification to the Soviet authorities.

68. Mr. EIDE said that the response from the Soviet authorities was very satisfactory and was of major significance for the future of the Sub-Commission.

ORGANIZATION OF WORK (continued)

69. Mr. ALFONSO MARTINEZ requested information on the action taken regarding the incident which had involved Mrs. Warzazi in 1990.

70. Mrs. NOLL-WAGENFELD (Senior Legal Officer, United Nations Office at Geneva) said that the United Nations Office at Geneva had taken the incident very seriously. The matter had been taken up with United Nations Headquarters because any decision to issue members of the Sub-Commission with a specific United Nations document reflecting their status would create a precedent, since members of similar United Nations bodies would request that a similar kind of document be issued to them. The Swiss authorities had also been approached on the matter. All those initiatives had failed somewhere along the line. Earlier in the year a reply had been received from Headquarters indicating that discussions with the other services concerned in New York were continuing and that no decision had been reached. That reply was largely reflected in the last paragraph of the letter dated 5 June 1991 which the Under-Secretary-General for Human Rights had sent to all members of the Sub-Commission confirming their status as experts on mission. A reply had also been received from the Permanent Mission of Switzerland indicating that the Swiss authorities were unable to agree to the issue of a special identity document, since they could not grant special treatment to members of the Sub-Commission alone. The position of members of the International Law Commission could not be considered as a derogation from the general rule.

71. Mr. ALFONSO MARTINEZ suggested that the communications received from United Nations Headquarters and the Permanent Mission of Switzerland be distributed to members of the Sub-Commission for their information and that the Chairman and the Secretariat continue to follow up the matter.

The meeting rose at 1.20 p.m.